

Department of Energy

931.205-47

Subpart 931.2—Contracts With Commercial Organizations

931.205 Selected costs.

931.205-18 Independent research and development (IR&D) and bid and proposal (B&P) costs.

(c)(2) IR&D costs are recoverable under DOE contracts to the extent they are reasonable, allocable, not otherwise unallowable, and have potential benefit or relationship to the DOE program. The term “DOE program” encompasses the DOE total mission and its objectives. B&P costs are recoverable under DOE contracts to the extent they are reasonable, allocable, and not otherwise unallowable.

[60 FR 30004, June 7, 1995]

931.205-19 Insurance and indemnification.

(f) The contracting officer shall insert the clause at 952.231-71, Insurance-litigation and claims, in non-management and operating cost reimbursement contracts involving work performed at facilities owned or leased by the Department exceeding \$100,000,000.

[66 FR 4627, Jan. 18, 2001, as amended at 67 FR 14871, Mar. 28, 2002; 74 FR 36366, July 22, 2009]

931.205-32 Pre-contract costs.

(a) To the extent practical, known expenditures of pre-contract costs under DOE contracts should be governed by establishing advance understandings as contemplated by 48 CFR 31.109. Contracts that include authorized precontract costs shall include the “Date of Incurrence of Cost” clause specified at 952.231-70.

(b) The following limitations apply to establishment of advance understandings relative to pre-contract costs:

(1) Pre-contract cost authorizations shall not be used to cover a period in excess of 15 days, unless a longer period is approved by the HCA based upon a written finding that such an allowance is reasonable, and shall not be extended or renewed. A copy of the findings shall be forwarded to the Senior Procurement Executive at the time of approval. If prolonged coverage is nec-

essary, a letter contract shall be issued.

(2) All pre-contract cost authorizations shall be reviewed and approved at a management level above the contracting officer.

(3) Retroactive precontract cost authorization and the predating of contractual agreements shall not be used.

(4) Pre-contract cost authorizations shall not authorize the delivery or furnishing of any goods or services from a contractor until after the contract is executed.

[49 FR 12011, Mar. 28, 1984; 49 FR 38951, Oct. 2, 1984, as amended at 74 FR 36366, 36378, July 22, 2009; 75 FR 29459, May 26, 2010]

931.205-33 Professional and consultant service costs.

(g)(1) Reasonable litigation and other legal expenses are allowable when incurred in accordance with 10 CFR part 719, Contractor Legal Management Requirements, if not otherwise made unallowable by law or provisions of the contract.

(2)(A) Cost reimbursement contracts involving work performed at facilities owned or leased by the Department for an amount exceeding \$100,000,000 are covered by this cost principle and 10 CFR part 719.

(B) This cost principle and 10 CFR part 719 are applicable to legal counsel retained by the Department itself for litigation and other legal services where the legal costs over the life of the matter for which counsel has been retained are expected to exceed \$100,000.

(3) Contractors described in paragraph (g)(2)(A) of this section are required to submit a Legal Management Plan within 60 days of execution of a contract.

[66 FR 4627, Jan. 18, 2001]

931.205-47 Costs related to legal and other proceedings.

(h) *Costs associated with whistleblower actions.* (1) Definitions for purposes of this paragraph (h):

Covered contractors and subcontractors means those contractors and subcontractors with contracts exceeding \$5,000,000.